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Approved For Release 2004/10/27 : CIA-RDP78M02660R000800020035-1

WASHINGTON, D.C. 20505

25 AUG 1976

Mr. James M. Frey
Assistant Director for Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Frey:

Enclosed is a proposed report to Chairman Stennis, Senate Committee on Armed Services, in response to a request for our recommendations on S. 2927, a bill "To protect the confidentiality of the identities of certain employees of the Central Intelligence Agency."

Advice is requested as to whether there is any objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

SIGNED

George L. Cary
Legislative Counsel

Enclosure

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Honorable John C. Stennis, Chairman
Committee on Armed Services
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your request for this Agency's views on S. 2927, a bill "To protect the confidentiality of the identities of certain employees of the Central Intelligence Agency."

S. 2927 would apply to persons who are in authorized possession or control of information which would associate individuals or entities with the Central Intelligence Agency and which has been designated for a specific degree of protection pursuant to Executive order. These persons are subject to criminal sanctions for willful disclosure of such information to any person not authorized to receive it. Prosecution would be barred if the information was communicated to a committee of Congress with oversight responsibility for intelligence activities or to a judge where such information is needed for a judicial proceeding.

The exposure of individuals involved in the foreign intelligence operations of the United States can seriously jeopardize their personal safety and the safety of their families and associates. Although the nation has already witnessed tragedy in this respect, groups and individuals within the United States, whose avowed purpose is to destroy our nation's foreign intelligence capability, are still attempting to discover and publish the identities of American clandestine intelligence personnel. Existing laws are almost completely inadequate in deterring this kind of malicious act. This Agency, therefore, supports legislation, such as S. 2927, designed to strengthen existing law, at least with respect to individuals who are officially entrusted with the information by the United States Government.

There are several technical comments we would like to make with respect to the language of S. 2927. The bill would only cover specific kinds of information, "such as names, addresses, post office boxes, or telephone numbers." However, more general kinds of information



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may be designated for protection because its unauthorized disclosure would tend to identify undercover officers or agents. For example, unauthorized disclosure of sensitive information concerning Agency cover procedures in general could expose numerous undercover employees or agents. We recommend that the language of S. 2927 be modified by inserting the words "information identifying or tending to identify" in lieu of the words "information such as names, addresses, post office boxes, or telephone numbers identifying," in lines 4 through 6 of page 1. In addition, S. 2927 applies only to information designated for protection "pursuant to an Executive order." We believe insertion of the words "or statute" in line 10 of page 1 after the words "Executive order of the President of the United States" is necessary to provide protection for sensitive intelligence sources and methods which are specifically protected by statute [50 U.S.C. 403(d)(3)] but which may not fall within the purview of Executive order. Finally, we recommend that section 1(b) be modified by inserting the word "only" after the word "communicated" in line 4 of page 2. Otherwise, this provision could be construed as permitting someone who has made unauthorized disclosures to immunize himself from prosecution by making additional disclosures to the Congress or the courts.

Preventing the exposure of clandestine intelligence personnel is the most acute aspect of the broader problem of protecting intelligence sources and methods in general from unauthorized disclosure. Over the years, serious damage to our foreign intelligence effort has resulted from the unauthorized disclosure of information related to intelligence sources and methods. In many cases, these disclosures have been made by individuals who acquired access to sensitive information by virtue of a special relationship of trust with the United States Government. Current law, in our opinion, does not adequately cover situations where deliberate breach of this relationship of trust occurs. In addition to measures such as those proposed in S. 2927, this Agency believes that the Congress should consider legislation which will deal with this general problem of protecting intelligence sources and methods. Such legislation was proposed by the President in his 18 February message and has since been introduced in the House of Representatives as H.R. 12006.

The Office of Management and Budget has advised there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

George Bush
Director

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FROM: Deliver to 7201 NEOF		NO	R 200181
Central Intelligence Agency		DATE	25 August 1976
Washington, D.C. 20508		TYPE OF MATERIAL	
TO: Mr. James M. Frey		ENVELOPE (S)	
Assistant Director for		PACKAGE (S)	
Legislative Reference		OTHER	
Office of Management and Budget			
Washington, D.C. 20503			
LOG DATA		DATE AND TIME OF PICK-UP	8/25/76 10 ⁴⁵ AM
		COURIER'S INITIALS	MAA
		ORIGINATING OFFICE LOG	2

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